

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

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ARELETHA JORDAN,

Plaintiff,

VS.

ALSCO TEXTILE SERVICE,

Defendant

NO. 5:05-cv-364(DF)

ORDER

Plaintiff **ARELETHA JORDAN** has filed a *pro se* complaint against her employer, AlSCO Textile Service, under the Age Discrimination in Employment Act of 1967 ("ADEA"), 29 U.S.C. §§ 621 *et seq.* Plaintiff alleges that on an unspecified date she was improperly terminated in her capacity as "line leader," replaced by a younger employee, and had her pay reduced.

In order to maintain an action under the ADEA, an aggrieved employee must exhaust available administrative remedies by filing a charge of unlawful discrimination with the EEOC before filing a lawsuit. *See* 29 U.S.C. § 626(d)(2); *Riccard v. Prudential Ins. Co.*, 307 F.3d 1277, 1291 (11th Cir.2002). In Georgia, an employee must file a charge with the EEOC within 180 days of the alleged discriminatory acts of her employer. *See Nida v. Echols*, 31 F.Supp.2d 1358, 1365 n.8 (N.D. Ga.1998). After timely filing the EEOC charge, the employee must then wait 60 days before filing a civil action. *See* 29 U.S.C. § 626(d); *Grayson v. K Mart Corp.*, 79 F.3d 1086, 1100 (11th Cir.1996) (an employee may sue before the EEOC issues a right-to-sue letter under the ADEA). Therefore, an employee who timely files the EEOC charge and then waits 60 days has satisfied the statutory preconditions to filing suit under the ADEA.

Plaintiff indicates in her complaint that she filed her charge with the EEOC on October 5, 2005, the same day she submitted her complaint in this Court. Because plaintiff failed to wait 60 days before filing her ADEA action in federal court, her ADEA claim is premature and must be **DISMISSED** without prejudice. If plaintiff wishes to re-file her lawsuit in this Court, she must specify the date on which the alleged discriminatory act(s) occurred.

SO ORDERED, this 11 day of October, 2005.

A handwritten signature in black ink, appearing to read 'Duross Fitzpatrick', written over a horizontal line.

DUROSS FITZPATRICK
UNITED STATES DISTRICT JUDGE

DF/cr